

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

CLAY CALDWELL,)
)
)
Plaintiff,) Civil Action No. 11-1001
)
)
vs.)
)
THE DEPT. OF CORRECTIONS) Judge Terrence F. McVerry/
AGENCY; SECRETARY JOHN WETZEL;) Magistrate Judge Maureen P. Kelly
DORINA VARNER; JOSEPH F. MAZ-)
URKIEWICZ; TREVOR WINGARD;)
JAMES SCEKERS; TONI M. COLLAND;)
ANDREA WEIMER; KANDACE)
GETTINS; ROBERT BUSSARD;)
F. BAKER; O'NEIL; J. BEERS;)
SULLENBERGER; PARKER; KERRY)
KINNAN; T. LACEY; KARMIZEN;)
WILLIAM BROWN; GEORGE A.)
KUZILLA, Jr.; KERRY S. VANCE;)
B. WEAVER; COLLINS; KIM A. COOK;)
and JOHN W. PECK,)
)
Defendants.)

MEMORANDUM ORDER

The above-captioned prisoner civil rights complaint and request to proceed in forma pauperis ("IFP") were received by the Clerk of Court on August 3, 2001, and were referred to United States Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation, ECF No. [3], filed on August 15, 2011, recommended denial of Plaintiff's IFP motion because Plaintiff had accumulated "three strikes" pursuant to 28 U.S.C. § 1915(g) of the Prison Litigation Reform Act ("PLRA"). Service

was made on the Plaintiff at his address of record and Plaintiff filed objections. ECF No. [4]. The objections do not merit rejection of the Report. In fact, Plaintiff concedes that he has three strikes. ECF No. [4] at 2, ¶ 5.

Plaintiff does raise some argument about an alleged difference in the statute of limitations under Section 1983 and under the Religious Land Use and Institutionalized Persons Act. However, we fail to see the relevance of such an argument.

Hence, the following order is entered.

AND NOW, this 13th day of September 2011;

IT IS HEREBY ORDERED that the Plaintiff's motion for leave to proceed in forma pauperis is **DENIED**. Plaintiff is **ORDERED** to pay the entire filing fee by September 30, 2011 or the case will be dismissed for failure to prosecute.¹

IT IS FURTHER ORDERED that the Report and Recommendation, ECF No. [3], filed on August 15, 2011 by Magistrate Judge Kelly, is adopted as the opinion of the court.

s/Terrence F. McVerry
United States District Court Judge

Dated: September 13, 2011

cc: CLAY CALDWELL
EM-2163
S.C.I. Greensburg
165 SCI Lane
Greensburg, PA 15601-9103

¹ Plaintiff asserts that his family will be paying the filing fee.